

# Judge Lee's Response to Jury Question #1

November 24, 2015

**With respect to Jury Instruction No. 18, we do not understand how sentence (2) relates to sentence (1). Please clarify or give an example?**

**Answer:**

(1) The first sentence of Jury Instruction 18 is intended to state that a person acts "willfully" as used in the instructions where he acts voluntarily, intentionally, and purposely and with the specific intent to do something the law forbids, that is, with the bad purpose to disobey or disregard the law. The second part of the third sentence merely clarifies that the person's actions, if willful, are not due to negligence, mistake, or inadvertence.

(2) The second sentence "The person need not be aware of the specific [health care] law or rule that his conduct may be violating" means what it says that the person does not have to have specific knowledge of the specific statute or law that the conduct may violate. The Government does not have to prove the Defendant was aware of the specific health care law. The question is what was the Defendant's intent, did he act "willfully, as defined in Instruction 18?"

/s/

Gerald Bruce Lee  
United States District Judge

*Nov 24, 2015*

We have the following question about "instruction #18":

We do not understand how the sentence "a person acts intentionally and purposely and with the specific intent to do something the law forbids" relates to the sentence "the person need not be aware of the specific law or rule that his conduct may be violating."

Could you please clarify or give an example??

[redacted], Foreperson  
[redacted]

1. [illegible]

197#

2. [illegible]

3. [illegible]

4. [illegible]

5. [illegible]

6. [illegible]

7. [illegible]

8. [illegible]

9. [illegible]

10. [illegible]

11. [illegible]

12. [illegible]

13. [illegible]

14. [illegible]

15. [illegible]

16. [illegible]

17. [illegible]

18. [illegible]

19. [illegible]

20. [illegible]

21. [illegible]

22. [illegible]

23. [illegible]

24. [illegible]

25. [illegible]

26. [illegible]

27. [illegible]

28. [illegible]

29. [illegible]

30. [illegible]

31. [illegible]

32. [illegible]

33. [illegible]

34. [illegible]

35. [illegible]

36. [illegible]

37. [illegible]

38. [illegible]

39. [illegible]

40. [illegible]

41. [illegible]

42. [illegible]

43. [illegible]

INSTRUCTION NO. 18

The term "willfully," as used in these instructions to describe the alleged state of mind of the defendant, means that a person acts intentionally and purposely and with the specific intent to do something the law forbids, that is, with the bad purpose to disobey or to disregard the law. The person need not be aware of the specific law or rule that his conduct may be violating. A person does not act "willfully" if his or her conduct was due to negligence, inadvertence, or mistake.

WE ARE NOT UNDERSTANDING HOW SENTENCE  
(2) RELATES TO SENTENCE (1). PLEASE CLARIFY.  
OR GIVE AN EXAMPLE?

The Jury

GOVT. PROPOSED RESPONSE:

UNDER 18 USC 1347(b), HEALTH CARE FRAUD,  
THE DEFENDANT NEED NOT HAVE ACTUAL KNOWLEDGE  
OF THE HEALTH CARE FRAUD STATUTE OR SPECIFIC  
INTENT TO COMMIT A VIOLATION OF THE HEALTH  
CARE FRAUD STATUTE.



Def's

At end of Instruction No. 18

"A willful act is one undertaken with a bad purpose."

- \* In other words, in order to establish a "willful" violation of a statute, the Government must prove that the defendant acted with knowledge that the conduct was unlawful."

~~Bryan~~ v. US, 524 U.S. 184, 192 (1998)

Intermittent  
for AMIC A Bajoghtis  
Defendant



that the conduct was unlawful," defendant acted with knowledge government must prove that the a "willful" violation of a statute, the "in other words, in order to establish a willful act is one undertaken with a bad purpose."

2014.02.15 (Wed) 21:24

1/11/2019